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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,985	10/19/2001	John H. Schneider	ITW-13111	5951

7590 12/22/2004

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EXAMINER

TRUONG, THANH K

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/042,985

Applicant(s)

SCHNEIDER ET AL.

Examiner

Thanh K Truong

Art Unit

3721

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

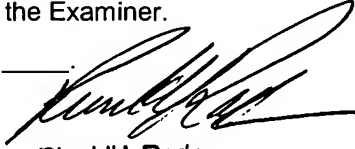
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

Continuation of 5. does NOT place the application in condition for allowance because: The examiner maintains that the new ground of the rejection in the Final Office Action is proper, and the Applicant's After Final Argument is noticed but not entered.

In response to the Applicant's argument that the examiner final rejection without any citation to prior art and without any basis in logic, the examiner disagrees. Again, from the Applicant's disclosure (page 8, lines 19-31 and page 9, lines 1-2):

"As seen in FIG. 1, the slits 20 are inclined ... Alternatively, lines of weakness may be employed in place of slits, provided that such lines of weakness yield easily when the consumer tries to tear the header open, ... Again, such a line of weakness may comprise a line of spaced slits, a line of spaced perforations, a continuous or discontinuous score-line of thinned header material, a continuous or discontinuous line of pre-weakened header material, or any equivalent structure for providing a line of preferential tearing."

Base on this disclosure, the examiner has concluded that the Strand's (6,360,513) line of weakness 13 is an alternative of the Applicant's slit 20, and thus the 103 rejection instead of the 102 rejection in the previous Office Action (mailed April 9, 2004).

Applicant's arguments filed July 12, 2004 and October 29, 2004 are the same arguments, and the examiner has clearly indicated in the Final Office Action the rationale for the 103 rejection of claims 1, 3-11, 13-22, 49 52 and 54-55 which is a new ground of rejection.